

CRM-M No. 28420 of 2014 (O & M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M No. 28420 of 2014 (O & M)

Date of Decision: 29.07.2015.

Sh. Mayank Lakhani and another

... Petitioner(s)

Versus

A.S. Sharma & Associates

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Kunal Dawar, Advocate for the petitioners.

Mr. I.S. Saggu, Advocate for the respondent.

Paramjeet Singh, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C. for quashing of Criminal Complaint No. 77 dated 13.01.2014, under Sections 138, 141, 142 of the Negotiable Instruments Act and under Sections 420, 120-B of the Indian Penal Code pending in the Court of learned Judicial Magistrate Ist Class, Faridabad along with all subsequent proceedings arising therefrom, including the summoning order dated 13.01.2014 under Section 138 of the Negotiable Instruments Act, 1881 and the order dated 06.08.2014 declaring petitioner No. 1 as proclaimed

I have heard the learned counsel for the petitioner and perused the record.

Learned counsel for the petitioners submits that the compromise has been effected between the parties and he has produced two drafts amounting to ₹1 lac and ₹3 lacs in Court today in favour of the complainant in compliance of order dated 22.07.2015. Photocopies of the same are placed on record and the original drafts have been returned to learned counsel for the respondent. Counsel for the respondent submits that he has no objection if complaint and subsequent proceedings be quashed.

The Hon'ble Apex Court in the matter of ***Damodar S. Prabhu versus Sayed Bablal H.*** reported in ***2010(2) R.C.R. (Criminal) 851***, has held as under:-

“15. With regard to the progression of litigation in cheque bouncing cases, the learned Attorney General has urged this Court to frame guidelines for a graded scheme of imposing costs on parties who unduly delay compounding of the offence. It was submitted that the requirement of deposit of the costs will act as a deterrent for delayed composition, since at present, free and easy compounding of offences at any stage, however belated, gives an incentive to the drawer of the cheque to delay settling the cases for years. An application for compounding made after several years not only results in the system being burdened but the complainant is also deprived of effective justice. In

view of this submission, we direct that the following guidelines be followed:-

THE GUIDELINES

(i) In the circumstances, it is proposed as follows:

(a) That directions can be given that the Writ of Summons be suitably modified making it clear to the accused that he could make an application for compounding of the offences at the first or second hearing of the case and that if such an application is made, compounding may be allowed by the court without imposing any costs on the accused.

(b) If the accused does not make an application for compounding as aforesaid, then if an application for compounding is made before the Magistrate at a subsequent stage, compounding can be allowed subject to the condition that the accused will be required to pay 10% of the cheque amount to be deposited as a condition for compounding with the Legal Services Authority, or such authority as the Court deems fit. (c) Similarly, if the application for compounding is made before the Sessions Court or a High Court in revision or appeal, such compounding may be allowed on the condition that the accused pays 15% of the cheque amount by way of costs.

(d) Finally, if the application for compounding is made before the Supreme Court, the figure would increase to 20% of the cheque amount. Let it also be clarified that any costs imposed in accordance with these guidelines should be deposited with the Legal Services Authority operating at the level of the Court before which compounding takes place. For instance, in case of compounding during the

pendency of proceedings before a Magistrate's Court or a Court of Sessions, such costs should be deposited with the District Legal Services Authority. Likewise, costs imposed in connection with composition before the High Court should be deposited with the State Legal Services Authority and those imposed in connection with composition before the Supreme Court should be deposited with the National Legal Services Authority.”

Consequently, in view of compromise effected between the parties and keeping in view the law laid down by the Hon'ble Apex Court in the matter of ***Damodar S. Prabhu (supra)***, instant petition is allowed; Criminal complaint No. 77, dated 13.01.2014 along with subsequent proceedings is quashed, subject to deposit of an amount of Rs. 45,000/- i.e. 15% of the cheque amount, within two weeks with the State Legal Services Authority, Haryana, failing which the same shall be recovered as arrears of land revenue and the respondent will also be at liberty to get the petition revived. The allegations levelled inter se the parties shall stand expunged.

Disposed of in the aforementioned terms.

July 29, 2015.
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(PARAMJEET SINGH)
JUDGE